

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
)
Changes in Retail Point of Sales of all over) RM-10614
the counter 2 way voice or data equipment)
)

COMMENTS IN OPPOSITION

To: The Commission

1. *Introduction.* The matter captioned above was brought before the Commission by a petition for rulemaking filed by Dale E. Reich on November 26, 2002. The petition was placed on notice on January 29, 2003.¹ Being placed on notice, comment was solicited on the petition for 30 days from the date it was placed on notice. As an amateur radio operator who would be directly affected by the proposals contained in the petition, I do comment in this proceeding.

2. *Background.* The petition asks that new regimes be put into place with respect to transmitting equipment. In the first part to the petition, it is proposed to require new record-keeping by private parties of sales of radio equipment. Vendors would be required to retain information that would not be released to the public. Law enforcement authorities, although not clearly indicating what type of such, and Commission could obtain such information upon request. An exemption is presented to the record-keeping requirement as well. In the second part of the petition, it appears to be proposed that equipment must be tagged in various manners. It is additionally proposed that such tagging would be to aid local law enforcement.

3. *Discussion.* The petition creates a new regulatory burden on the public that does not presently exist. The petition also proposes to create what conceivably be a massive delegation of authority to the Wireless Telecommunications Bureau. It also is questionable as to what authority the proposed changes would be allowed by as it would appear to cloth officials at

¹ See Consumer & Governmental Affairs Bureau Reference Information Center Petitions for Rulemaking Filed, Report No. 2591.

multiple levels of government with new investigative authority as discussed in the petition. Various parts of the proposal present questions in which it is unclear as to what authority such actions would be taken by way of. It is unclear that existing authorities allow for such rules to be put into place.

4. Privacy concerns are also an issue with respect to the first part of the proposal. By what authority would the record-keeping requirement be imposed upon retail vendors? What rights would exist with respect to the information maintained? Why is this restricted to only retail vendor sales? This is a very broad proposed action that needs to be more narrowly constrained as compared to how it is presently written. The proposal as presented causes me concern as to privacy.

5. Tagging requirements are also a matter of concern. It is not apparent whether or not such would be retroactive in any respect. It also unclear what interest such tagging would serve as it no certainty that such tagging would be accepted by local authorities. What would happen if such tags were counterfeited on equipment items? What would such tagging prove? In terms of the amateur radio services, what would an amateur radio operator do if they built their own equipment that such would require tagging of some sort by a means not clearly indicated?

6. *Conclusion.* The petition appears to be premature and rather unclear. I do not support these proposed changes as I do not see how there is a pressing need at this time for such changes to be considered. As such, I therefore OPPOSE the issuance of a Notice of Proposed Rulemaking at the present. I ask that the petition be dismissed without prejudice to allow for further refinement and possible resubmission.

Respectfully Submitted,

Stephen Michael Kellat
1712 East 29th Street
Ashtabula, OH 44004-5244

January 30, 2003